

Attorney's Docket No.: 05542-516001 / 7901/CMP

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Birang et al.  
Serial No. : 10/721,769  
Filed : November 24, 2003  
Title : METHODS AND APPARATUS FOR POLISHING CONTROL

Art Unit : 2818  
Examiner : David Nhu

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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RESPONSE TO RESTRICTION REQUIREMENT

Responsive to the action mailed January 28, 2005, the applicant elects the invention of Group I drawn to the embodiment of a method for closed loop control in chemical mechanical polishing. The election is made with traverse.

The Examiner defined species based on claim limitations rather than embodiments disclosed in the specification. The application respectfully objects. M.P.E.P. Section 806.04(e) expressly provides that claims "*are never species*," and that species "*are always the specific different embodiments*." For at least this reason, the applicant respectfully submits that the restriction is improper.

The Examiner grouped into different species claims that are not mutually exclusive. The applicant respectfully objects. M.P.E.P. Section 806.04(f) expressly provides that "[c]laims to be restricted into different species must be mutually exclusive." That is, for two claims to be properly restricted to different species, one of the claims must recite limitations found in a first of the different species but not a second, and the other of the claims must recite limitations found in the second of the different species but not the first. In the restriction, there are claims that are not mutually exclusive but are nevertheless grouped in to different species. By way of example, claims 1 and 19 are not mutually exclusive because the former recites limitations that can be

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04/07/2005 CPARIS 00000010 061050 10721769

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